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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,211	07/02/2001	Laurent Emorine	58769.000011	8548

7590

09/26/2002

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WASHINGTON, DC 20006

EXAMINER

ULM, JOHN D

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 09/26/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/895,211

Applicant(s)  
Emorine et al.

Examiner  
John Ulm

Art Unit  
1646



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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- 1) Claim 1 is pending in the instant application.
- 2) The instant specification does not comply with 37 C.F.R. § 1.84(U)(1), which states that partial views of a drawing which are intended to form one complete view, whether contained on one or several sheets, must be identified by the same number followed by a capital letter. Figure 1 of the instant application, for example, is presented on two separate panels. The two sheets of drawings which are labeled "FIG 1-1" and "FIG 1-2" in the instant specification should be renumbered "Figures 1A and 1B". Applicant is reminded that once the drawings are changed to meet the separate numbering requirement of 37 C.F.R. § 1.84(U)(1), Applicant is required to file an amendment to change the Brief Description of the Drawings and the rest of the specification accordingly.
- 3) Applicant is advised that the nucleotide sequence presented in Figure 1 of the instant application does not encode the amino acid sequence presented therein. That figure identifies amino acid residues 1, 71, 86 and 220 as histidine residues. However, the codon in the nucleotide sequence encoding each of these residues is ATG, which is well known in the art as encoding methionine, not histidine. Amino acid residue 125 of that sequence is identified as a leucine, whereas the corresponding codon is ATC, which encodes isoleucine. Finally, amino acid residues 213, 308 and 352 are each identified as proline even though the corresponding codons are TTT and TTC, each of which encodes phenylalanine. Further, the instant application fails to comply with the requirements of 37 C.F.R. § 1.821 through 1.825. Specifically, no sequence listing has been provided which includes the amino acid sequence presented in Figures 1-1 and 1-2

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of the instant application. The amino acid sequence presented in SEQ ID NO:2 of the current sequence listing is different from the amino acid sequence presented in those figures at those residues identified above. Applicant needs to either correct the figures or provide a substitute computer readable form (CRF) copy of a "Sequence Listing" which includes all of the sequences that are present in the instant application and encompassed by these rules, a substitute paper copy of that "Sequence Listing", an amendment directing the entry of that paper copy into the specification, and a statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. §§ 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d). For rules interpretation Applicant may call (703) 308-1123. See M.P.E.P. 2422.04.

4) Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in France on 25 January of 1989. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the earliest United States application relied upon under 35 U.S.C. 120 was filed on 03 September of 1991, more than twelve months thereafter

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5) Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. This claim recites "the amino acid sequence of SEQ ID NO 1". This is clearly not Applicant's intention since SEQ ID NO:1 is a

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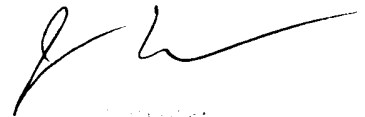
nucleotide sequence, not an amino acid sequence. However, because the sequence listing in the instant application contains four different amino acid sequences, it is not possible to determine to which one of those four amino acid sequences Applicant intends to refer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Ulm whose telephone number is (703) 308-4008. The examiner can normally be reached on Monday through Friday from 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached at (703) 308-6564.

Official papers filed by fax should be directed to (703) 308-4242 or (703) 872-9306. Official responses under 37 C.F.R. § 1.116 should be directed to (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



John D. Ulm  
Examiner